

FROM THE COMMISSIONER



The Department of Financial Institutions' consumer division is currently finishing up with the last of the license renewal applications. The Department is up to approximately 845 active licenses, and the consumer industry in North Dakota continues to grow. Currently all of our licenses run from July 1 through June 30th. All the consumer renewal applications are due on the same date, June 1st of each year. Typically we send out the renewal information well ahead of the June 1st deadline, in fact we now send the information out in February due to the volume of licenses which must be reviewed. Any applications received after June 1st will be charged a \$50 late fee. The Department would like to encourage all licensees to take advantage of the online license renewal feature located

on our website. The Department's new web address is www.nd.gov/dfi.

The 59th Legislative Assembly organized December 6-8, 2004, and met in regular session from Tuesday, January 4, 2005, through Saturday, April 23, 2005. This year's Legislative Assembly enacted chapter 13-09 of the North Dakota Century Code entitled Money Transmitters. In addition to the new legislation, the Department was granted another Consumer Licensing Investigator/Examiner position. Also, a number of changes were made to current legislation. In this Newsletter, the Department will inform you about these recent changes.

If at any time you would like the Department to comment on issues that may affect your industry, please feel free to contact us and we will try to include those questions or items of interest in our next Newsletter.

COLLECTION AGENCIES

For those collection agencies collecting medical or hospital bills, Senate Bill 2204 amended sections 13-01-14 and 51-14-01 of the North Dakota Century Code, relating to medical services provider late payment charges and credit service charges. North Dakota Century Code § 13-01-14(4) states: "A creditor may not charge, receive, or collect a late payment charge on medical or hospital bills during the initial ninety days following services. After the initial ninety days have passed, a late payment charge may be imposed at a rate that does not exceed one percent per month. A late payment charged by a hospital under this subsection may not exceed twenty-five dollars per month. This subsection does not apply in cases of financial hardship as certified by the creditor. A medical services provider may not charge, receive, or collect a credit service charge on money due on a revolving charge account under chapter 51-14."

As of August 1, 2005, new legislation took effect changing the exemption from licensing as a collection agency for attorneys to exempt only those attorneys which are licensed to practice in North Dakota. Attorneys not licensed to practice law in North Dakota engaging in activities traditionally associated with debt collection, such as sending demand letters (dunning notices) or making collection telephone calls to the consumer, will be required to obtain a collection agency license. The attorney exemption only applies to North Dakota licensed attorneys, not their support staff. It is the intent of this Department to stop non-attorney support staff from engaging in activities traditionally associated with debt collection without the benefit of a collection agency license. The intent of the law is expressed in the testimony for House Bill No. 1141.



HATZENBUHLER ACCEPTS NEW POSITION

Wayne Hatzenbuhler has accepted the new Consumer Licensing Investigator/Examiner position. Wayne transferred from the credit union division where he has worked as an examiner for the last thirteen years.



RENEWAL FEES

Previously when the Department has denied a license renewal application, the renewal fee has always been refunded. However, the decision to deny a license renewal application must be made on the same grounds as would justify denial of an initial application for license. At the time of the initial application we receive an investigation fee which is not subject to refund due to the costs involved in the background investigation and review of the application. Much of the same work is conducted when reviewing the renewal application such as reviewing the financial information, determining financial responsibility, reviewing complaint history etc. As a result of the work involved in reviewing the renewal application, the Department will no longer refund renewal fees.

DEFERRED PRESENTMENT SERVICE PROVIDERS

The Department sent out a memo dated April 22, 2005, to all licensed deferred presentment service providers regarding House Bill 1321. As stated in the memo, House Bill 1321 amended certain provisions of the North Dakota Century Code relating to Deferred Presentment Service Providers otherwise known as "Payday Lenders." To recap what was stated in the memo, the Department has now changed North Dakota statutes to require licensing for internet based entities conducting electronic deferred presentment service transactions. North Dakota lenders may now allow customers to write a check for a deferred presentment service transaction in an amount up to \$600. However, licensees cannot advance more than \$500 to any borrower. Furthermore, deferred presentment providers now have sixty (60) days in which the deferred presentment service transaction must be paid off in cash, money order, electronic payment or certified check by the customer or if a check is used the check must be deposited by the licensee. The old law mandated forty-five (45) days. The law was also amended to allow licensees to contract for and collect a returned check or electronic debt charge not to exceed twenty dollars (\$20.00) eliminating the limitation on one per customer per year.

The Department is currently exploring the implementation of a regulatory database program that will provide real-time tracking of deferred presentment service transactions and verification of borrower eligibility. The expense of implementing this database will be passed on to the consumer. Although the database has not yet been completed, when it is available lenders will be required to register all deferred presentment service transactions on to the database. This will prevent customers from going from one lender to another and exceeding the limits authorized by law.



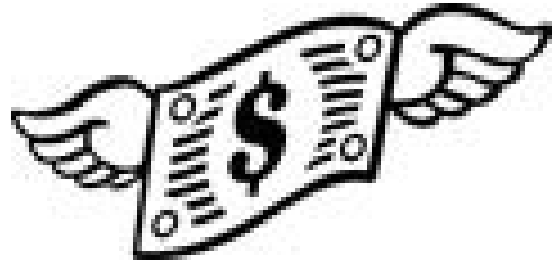
MONEY SERVICES BUSINESS REGISTRATION

A final rule issued in 1999 by the Secretary of the Treasury revised the regulatory definitions of certain non-bank financial institutions for the purposes of the Bank Secrecy Act (BSA) and grouped the definitions into a separate category of financial institutions called “money services businesses” or “MSBs.” Any licensee that engages in a business activity involving money orders, travelers checks, money transmission, check cashing, currency exchange, or stored value may fall under the definition of a MSB and may be required to register with the Department of the Treasury. The Department recommends that all licensees visit the website for money services businesses located at www.msb.gov to learn more.



MONEY BROKERS

Currently our Collection Agency statute requires a branch fee for additional North Dakota locations. In an attempt to make the statutes uniform, the Department will also require a branch fee for money broker branch offices located in North Dakota. Effective July 1, 2005, all licensees must pay a fifty dollar annual fee for each branch located within the state of North Dakota.



MONEY TRANSMITTERS

Effective January 2, 2006, money transmitter legislation will replace the Sale of Checks Act and those companies licensed under that chapter will automatically become licensed as money transmitters. The money transmitter law was implemented to modernize legislation for non-bank check issuers and money transmitters. Our current sale of checks law, which was enacted in 1973, only allows companies to sell checks, drafts, or money orders for the transmission or payment of money. The sale of checks law does not regulate electronic transmission of money for non-bank funds transmitters. In many other states similar legislation has been enacted allowing companies to not only sell checks but also other instruments such as stored value cards. The money transmitter law provides a regulatory framework for the modern day transmission or payment of money.



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